

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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BEN HUR MOVING & STORAGE, INC.,

08-CIV-6572 (JGK)

Plaintiff,

SUPPLEMENTAL AFFIDAVIT

- against -

THE BETTER BUSINESS BUREAU OF
METROPOLITAN NEW YORK INCORPORATED,
THE BETTER BUSINESS BUREAU, INC., d/b/a
THE BETTER BUSINESS BUREAU SERVING
METROPOLITAN NEW YORK, d/b/a BBB OF
METROPOLITAN NEW YORK, INC. a/k/a BBB,
a/k/a BETTER BUSINESS BUREAU,

Defendants.

-----X

STATE OF NEW YORK)
) s.s.:
COUNTY OF NEW YORK)

ALON MODLIN, being duly sworn, deposes and says:

1. I am the President of BEN HUR MOVING & STORAGE, INC., ("Ben Hur") and, as such, am fully familiar with the facts and circumstances of this matter.

2. I submit this Supplemental Affidavit in further support of Ben Hur's instant application for an injunction directing the Defendants (collectively, "BBB") to put "under review" of "record unavailable" under the name Ben Hur on their website. I note as an initial matter that the BBB previously put such a listing under Ben Hur's name on its website; clearly it would not be prejudiced by doing so again. A copy of a print out of the BBB's website from June 6, 2007 stating "no report is available at this time" under Ben Hur's name is annexed hereto as Exhibit "A".

3. As I emphasized in my moving Affidavit, the BBB maintains a policy of fraudulently concealing complaints it receives against BBB member businesses while

immediately publishing all complaints it receives concerning companies that are not BBB member businesses. I'm submitting this affidavit to provide proof of this disparate treatment for the court's consideration.

4. Annexed hereto as Exhibit "B" is a print-out of the BBB's website indicating that the BBB received only one complaint against the Plaintiff from 2002 to 2005, a period during which it was a BBB member.

5. The truth is that during this same period, BBB received more complaints about Ben Hur than they revealed to the public; they concealed them in exchange for Ben Hur's payment of fees to the BBB. Indeed, the BBB sent me proof that they received 95 complaints against Ben Hur from 2003 to 2005. A sample of 10 such complaints is annexed hereto as Exhibit "C", the remainder can be produced at the appropriate time.

6. Indeed, the New York BBB and the Better Business Bureaus of other states specifically represent to the public that they report all complaints they receive equally and otherwise do not distinguish between those businesses that are members of the BBB and those that are not. Annexed hereto as Exhibit "D" is a print out from the websites of the Connecticut BBB, New Jersey and New York BBB in the *Frequently Asked Questions* part of their websites.

7. This Court will note that all three states contain the following questions and answers:

"Doesn't the BBB report only on its accredited businesses [i.e., BBB members]?"

No. BBBs issue reports on accredited businesses and non accredited businesses alike. We, as a matter of policy . . . apply the same standards to reporting on businesses, regardless of their accredited business status....

If all your funding comes from [BBB member] businesses, how can you be fair to the consumer?

The BBB's value to the business community is based on our neutrality. Our purpose is not to act as an advocate for businesses or consumers, but to act as a mutually trusted intermediary to resolve disputes, to facilitate communication, and to provide information on ethical business practices.

How can a BBB be unbiased when it gets a complaint about an accredited business?

The BBBs integrity is on the line every time we review and process a complaint. If we were to favor an accredited business over a non-accredited business in a complaint, such action would destroy our most valuable asset – the public trust... Our accredited businesses support us because they know we will act as a neutral third party, giving them an opportunity to learn of and respond to customer problems.

While the BBB is supported by the dues paid by accredited businesses, it remains impartial...

Exhibit "D", BBB *Frequently Asked Questions* for New York, New Jersey and Connecticut, emphasis added.

8. While the BBB's of other states may adhere to these goals of "neutrality" and not "favor[ing] accredited business[es] over a non-accredited business[es]," submitted herewith is uncontravertible evidence that this is not the case with the New York BBB Defendants in this action.

9. Finally, it should be noted that the BBB is used as a marketing and sales tool in the moving business. As a sales pitch, estimators seeking to book moving jobs request that potential customers review the BBB's website to review their company's "complaint" record and that of their competitors. The BBB's reports of a company's complaint history are consequently crucial to a moving company's success or failure. In this case, Ben Hur's competitors who are members of the BBB have an unfair business advantage over Ben Hur since their complaint record with the BBB will appear to be better than Ben Hur's when the exact opposite may be the case.

WHEREFORE, I respectfully request that this Court issue an Order consistent with the relief requested herein, and that this Court grant Plaintiff such different and further relief as this Court deems just and proper.


ALON MODLIN

Sworn to before me on the

7th day of August 2008


NOTARY PUBLIC

GIL SANTAMARINA
Notary Public, State of New York
No. 02SA5020068
Qualified in New York County
Commission Expires 11/09/09

Exhibit A



Better Business Bureau

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business reports

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BEN HUR MOVING & STORAGE, INC.

327 Walnut Avenue

Bronx, NY 10454

[View Location Map](#)

Original Business Start Date: 1/1/1990

Principal: Alon Modlin, President

Phone Number: (718) 742-4444

Additional Phone Numbers:

(718) 401-0671 (718) 401-0671 (212) 595-3040

(718) 401-0671 (212) 595-3000 (212) 595-3119

Fax Number: (718) 401-8009

Website: www.benhur.com

Type of Business: Storage-Household & Commercial, Movers

The Bureau's report on this business is currently being updated, and no report is available at this time. Please check this site in approximately four to six weeks.

Report as of: 6/5/2007

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As a matter of policy, the Better Business Bureau does not endorse any product, service, or company. BBB reports generally cover a three-year reporting period, and are provided solely to assist you in exercising your own best judgment. Information contained in this report is believed reliable but not guaranteed as to accuracy. Reports are subject to change at any time.

The Better Business Bureau reports on members and non-members. Membership in the BBB is voluntary, and members must meet and maintain BBB standards. If a company is a member of the BBB, it is stated in this report.

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Exhibit B



BBB of Metropolitan New York, Inc.
Serving New York City, Long Island
& the Mid-Hudson Region

business reports

- ◀ SEARCH THE NATIONAL DATABASE
- ◀ MORE ABOUT BBB MEMBERSHIP

Printer Version

◀ BACK TO SEARCH RESULTS

BEN HUR MOVING & STORAGE, INC.

140 West 83rd Street
New York, NY 10024

[View Location Map](#)

Original Business Start Date: 1/1/1990

Principal: Alon Modlin, President

Phone Number: (718) 742-4444

Additional Phone Numbers:

(718) 401-8009 (718) 401-0671 (718) 401-0671
(212) 595-3040 (718) 401-0671

Fax Number: (718) 401-8009

Website: www.benhur.com

Type of Business: Storage-Household & Commercial

The information in this report has either been provided by the company, or has been compiled by the Bureau from other sources.

Nature Of Business

This firm specializes in residential and commercial moving and also offers storage and related services.

Customer Experience

Based on BBB files, this business has a satisfactory record with the Bureau. A "satisfactory record" means that a company has been in business for at least 12 months, and it properly addressed complaints referred to it by the Bureau. The business cannot have an unusual volume or pattern of complaints, or any government actions against it in marketplace conduct. The Bureau must understand and have no concerns about the business's products, services and type of business.

The company's size, volume of business, and number of transactions may have a bearing on the number of complaints received by the BBB. The number of complaints filed against a company may not be as important as the type of complaints, and how the company handled them. The BBB generally does not pass judgment on the validity of complaints filed.

Complaint Outcome Statistics:

COMPLAINT OUTCOME	LAST 12 MONTHS	LAST 12..36 MONTHS	TOTAL
Resolved <i>Consumer received the requested resolution</i>	0	1	1

TOTAL	0	1
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Complaint Issues:

Please understand that complaints may concern more than one issue

COMPLAINT ISSUE	LAST 12 MONTHS	LAST 12..36 MONTHS	TO
Contract Disputes	0	1	
TOTAL	0	1	

Additional Information

PLEASE NOTE: Ben Hur Relocation Services, Inc. located at the same address, is a member of the BBB. A separate report is available on this firm.

Report as of: 12/8/2005

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The Better Business Bureau reports on members and non-members. Membership in the BBB is voluntary, and members must meet and maintain BBB standards. If a company is not a member of the BBB, it is stated in this report.

Exhibit C



Better Business Bureau®

Serving Metropolitan New York

257 Park Avenue South, New York, NY 10010

Phone: 212-533-7500 Fax: 212-477-4912

www.newyork.bbb.org

BBB of New York Department of Information and Investigations

Primary Name of Business Ben Hur Moving & Storage, Inc.
Business Address 140 West 83rd Street, New York, NY 10024
Main Business Phone (718) 742-4444
Information from Consumer Additional Firm Info:
 -Phone No: 7187424444
 -Web Site: <http://www.benhur.com>

Consumer Name Rory Frazier
Consumer Address 4512 S Someran Blvd, Orlando, FL 32822
Consumer Phone Day (917) 270-8932 Night --

Dates: **Purchased** 09/23/2004
Problem First Occurred 10/05/2004 **Purchase Price** \$0.00
Complaint Received 10/05/2004 **Amount in Dispute** \$0.00
Complaint Closed 11/04/2004

Closing Status In Conciliation

Customer Service Rep

Product or Service delivery of furniture from new york to orlando, fl

Additional Purchase Information

Additional Purchase Info:

-Model No: 118865

-Payment Made: Partial Payment Made

Dates Complained to Firm: 10/5/2004

Customer Service Rep: Dr. Alon Modlin

Description of Problem

I was given several dates of delivery from date that my furniture was pick up, which was september 23, 2004. I was told when I first called for an estimate that delivery was within 3-7 from date of pickup, at the time of pick up was given a delivery within 8-10 days, and now that time frame has past, I called on Monday, october 4,2004 and was told by lewis, the gentleman that I originally spoke with during the time I was seeking an esitmate, who first said that delivery would be anywhere from 3-7 days from date of pick-up date has now

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informed me that delivery is between 8-14 days and that I should call Monique, the person in charge of long distance delivery. I called and spoke to Monique on Tuesday, October 5, 2004 to find out where my furniture is and was told that my furniture would be going out tonight (October 5, 2004) and that I would then be receiving my furniture in 4 to 5 days from tomorrow. Now this company has had my furniture since September 23, 2004 and it is just now supposedly being shipped on tonight. I called on Tuesday evening and requested to speak to the manager of this company, and after what little research he did, he was unable to come up with any answers and suggested that I call back on tomorrow, Wednesday, October 6, 2004. He would have to speak to Monique who is in charge of long distant shipments to investigate the matter further to find out what the problem is. I am very upset with all the different dates, that they have given me. I feel as though this company has been very deceiving in getting my business. all I want is my furniture.

Settlement Sought

Other (requires explanation) - I want my furniture and I feel that service was not what they guaranteed and should receive a discount off of what they actually charged me for their uneffienct services.

Business Response

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Primary Name of Business	Ben Hur Moving & Storage, Inc.		
Business Address	140 West 83rd Street, New York, NY 10024		
Main Business Phone	(718) 742-4444		
Information from Consumer	Additional Firm Info: -Phone No: 7187424444 -Web Site: http://www.benhur.com		
Consumer Name	Dorothee ASHBY		
Consumer Address	2373 Broadway Apt 2006, New York, NY 10024		
Consumer Phone	Day (212) 761-6691	Night	--

Dates: Purchased	03/26/2004		
Problem First Occurred		Purchase Price	\$0.00
Complaint Received	09/29/2004	Amount in Dispute	\$0.00
Complaint Closed	12/16/2004		

Closing Status	In Conciliation
Customer Service Rep	
Product or Service	Moving Company - move of an apt

Additional Purchase Information

Additional Purchase Info:
 -Model No: J#111413
 -Payment Made: No
 Dates Complained to Firm: 5/1/2004, 6/29/2004
 Customer Service Rep: Mrs. Ana REYNOSO

Description of Problem

Here is the chain of events:-6/1/04 Claim sent in-6/29/04 called BenHur asking for claim status; settlement is being sent this week; -7/12/04 called again; was told to call Ana on 7/13 718 742-4444 at 12pm; -7/13 5h22pm left vmail for ana on ; -7/14 11h22am left 2nd vmail ; called again 7/14 17h20; no one there. told to call back 7/15 at 9am. -7/19 9h52am Left vmail for Sadiq ; called again and spoke with sadiq on 7/19 1pm - said he was still trying to retrieve my file. would call me back within 2 hours (so before 3pm on 7/19)-7/19 4pm spoke with

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sadiq. apparently they are still working on settlement. give them til the end of the month (7/30) and then I should receive something in the mail-7/20 pm msg from Sadiq to call on Friday 7.24 to get an update.-7.23 2h32pm called asking for ana who is not taking any calls. sadiq on the phone. left a msg for either one to call me back asap. 3h54pm called again. left yet another message for Ana to call me (sadiq had left for the day).7/25/04 received settlement form for \$93. which was mailed on 7/21.8/4/04 sent release form back to Ana, signed and notarized. Also alerted Ana via email that form was on its way. 8/15 I received check; but no authorized signature8/20 send image of check back to Ana, theyre to issue a new check9/5/04 Spoke with Ana, still waiting on her boss to sign it.9/10 Spoke with Ana; still waiting on her boss to sign new check9/15/04 boss wants actual check returned; UPS check to Ana (Track #1z7621ar221008853)9/16/04 check received; email from Ana saying she is sending the new check out today.9/22/04 sent Ana an email & a vmail asking status, as I have yet to receive anything.9/27/04 send Ana another email asking for status; still no response9/29/04 sent 3d inquiry, informing them of complaint being lodged with better business bureau

Settlement Sought

Other (requires explanation) - I would just like for them to re-issue the check for \$93 with authorized signature as they promised to do.

Business Response

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Primary Name of Business Ben Hur Moving & Storage, Inc.
Business Address 140 West 83rd Street, New York, NY 10024
Main Business Phone (718) 742-4444

Information from Consumer Additional Firm Info:
-Phone No: 7187424444
-Web Site: <http://www.benhur.com>

Consumer Name Laura LaScala
Consumer Address 3289 Sand Court, Melbourne Beach, FL 32951
Consumer Phone Day (321) 409-5563 Night (321) 409-5563

Dates: **Purchased** 08/13/2004
Problem First Occurred 09/02/2004 **Purchase Price** \$0.00
Complaint Received 10/06/2004 **Amount in Dispute** \$175.00
Complaint Closed 12/16/2004

Closing Status In Conciliation
Customer Service Rep Lewis
Product or Service Move Personal Goods to Florida

Additional Purchase Information

Additional Purchase Info:

-Payment Made: Yes

-Payment Method: Cash

Dates Complained to Firm: 9/2/2004, 9/8/2004, 9/15/2004

Customer Service Rep: Lewis-Monique- Tsuri

Description of Problem

Delivery was from New York to Florida and promised in 3 weeks at the outside. Delivery date was finally set by Roman the driver on September 2, 2004 the day before Hurricane Frances hit Florida. I accepted this date, however, on September 2, 2004 Roman informed me that he could not deliver because my shipment was in the middle of the truck and he was not going to move out other shipments to get to mine to make the delivery he promised. He said he could maybe come on Sept 5th, but due to the Hurricane he could not deliver that day either, and he

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stored the shipment in Miami. Two weeks later I got a call from the main office in NY from Monique who said that unless I paid \$175 in storage fees, they would not deliver. They suggested that if I did not want to pay the storage fee I could hire another company to pick up my shipment in Miami. Roman the driver called to schedule delivery on Sept 28 and to be sure I was going to pay the \$175 in cash or money order. I agreed so as to finally get my shipment. Complaint 1 - It took 5-1/2 weeks to get my shipment - not the promised 3 weeks. Complaint 2 - Storage was their choice not mine since I accepted delivery on 9/2 but Roman did not want to re-arrange the load. Complaint 3 - No one ever returned my calls from the main office to discuss complaint 2. I would like to be reimbursed the \$175 storage fee, which I feel I did not owe, but had to pay in order to get my shipment.

Settlement Sought

Refund - Refund of \$175 storage fee I paid just to get my shipment.

Business Response

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Primary Name of Business Ben Hur Moving & Storage, Inc.
Business Address 140 West 83rd Street, New York, NY 10024
Main Business Phone (718) 742-4444
Information from Consumer Additional Firm Info:
 -Phone No: 7187424444
 -Web Site: http://www.benhur.com

Consumer Name Rahul Sharma
Consumer Address 2400 W El Camino Real, Apt 312, Mountain View, CA 94040
Consumer Phone Day (347) 866-0625 Night --

Dates: **Purchased** 08/28/2003
Problem First Occurred 09/18/2003 **Purchase Price** \$2,154.43
Complaint Received 10/21/2003 **Amount in Dispute** \$320.00
Complaint Closed 01/22/2004

Closing Status In Conciliation
Customer Service Rep
Product or Service moving services from East Coast to West Coast
Additional Purchase Information
 Additional Purchase Info:
 -Account No: 106070
 -Payment Made: Yes
 -Payment Method: Money Order
 Dates Complained to Firm: 9/18/2003, 9/23/2003, 10/3/2003
 Customer Service Rep: Mr. Ofer

Description of Problem

Ben Hur (BH) picked up my goods on 8/28 and promised to deliver them within 3 weeks. There were 2 pick-up points and 2 delivery points. The 1st delivery address was given on 8/28. The delivery should have been made by 9/18. It was made on 9/23; 2 boxes were not delivered. Those arrived on 10/4 with the 2nd delivery. The 2nd delivery was on time, as the 2nd address was given on 9/16. However, most of the boxes in the 1st delivery were 5 days late, and 2 of the boxes (including

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the biggest one with the most clothes) were 16 days late. Up until 10/3, BH had agreed to give a discount for 1% per day late for the delay. On 10/3, I called BH to arrange for the discount before the delivery on 10/4. BH's rep (Ofer) did not call me back until 6 hours later, at 6pm (it was friday), all others were gone from BH's office. He then turned hostile, claiming that no discount was due because the 1st pick-up and 1st delivery were a courtesy that were being given for free. This was not what was told to us when we signed the original contract; we were given a binding price and we agreed to let BH move us, according to the terms that we had agreed on. This included both pick-ups and both deliveries. He said if full payment was not made on 10/4, then goods would not be delivered and driver would head back to East Coast. He then claimed a second delivery charge would be made if driver left without payment and without delivering the goods. When told the BBB would be notified of these customer service practices, he taunted 'Go ahead'. I am seeking 1% of the bill (\$2154) per day late (16 days for some of the boxes). This is a discount of \$320. Also, one dresser (worth \$200) was damaged in the delivery, but I am going thru the BH claims process to receive payment for that.

Settlement Sought

Refund - I am asking for a refund of \$320, 1% of the overall bill for every day late.

Business Response

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Primary Name of Business Ben Hur Moving & Storage, Inc.
Business Address 140 West 83rd Street, New York, NY 10024
Main Business Phone (718) 742-4444
Information from Consumer Additional Firm Info:
 -Phone No: 7187424444
 -Web Site: www.benhur.com

Consumer Name Vincent Sama
Consumer Address 1619 3rd Avenue Apt # 19G, New York, NY 10128
Consumer Phone Day (917) 364-8883 Night (212) 828-1180

Dates: **Purchased** 03/01/2003
Problem First Occurred 03/01/2003 **Purchase Price** \$1,734.00
Complaint Received 08/02/2003 **Amount in Dispute** \$1,734.00
Complaint Closed 01/22/2004

Closing Status In Conciliation
Customer Service Rep Ms. Monique
Product or Service A move

Additional Purchase Information

Additional Purchase Info:

-Payment Made: Yes

-Payment Method: Cash

Dates Complained to Firm: 3/1/2003, 4/17/2003, 5/26/2003

Customer Service Rep: Monique ?

Description of Problem

REal Simple, April 1st, they moved furniture in my apartment, damaged my floor, in which I submitted pictures, and an estimate of \$1734 from the contractor that originally sanded and stained my floor. After chasing them for 2 months, they offered my \$250. \$1734 from the contractor, \$250 from them. there is a 30 foot scratch on my wood floor in my apartment that Ben Hur inflicted the day of the move. THIS IS MY SECOND APPLICATION. I PUT ONE IN JUNE 1ST AND HAVE HEARD NOTHING.

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Settlement Sought

Other (requires explanation) - To honor my estimate, this is not a negotiation, they damaged the floor, they pay.

Business Response

This complaint was filed with the BBB of Metropolitan New York against the above mentioned firm during the past 36 months the Bureau's standard reporting period.

BBB Case No. 576345

Date Printed 01/06/2006

Mediator: Burton Strumpf



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Primary Name of Business Ben Hur Moving & Storage, Inc.
Business Address 140 West 83rd Street, New York, NY 10024
Main Business Phone (718) 742-4444
Information from Consumer Additional Firm Info:
 -Phone No: 7184010671
 -Web Site: www.benhur.com

Consumer Name Chris Stefanadis
Consumer Address 1617 Fannin, Apt 2706, Houston, TX 77002
Consumer Phone Day (281) 536-1724 Night (713) 654-0076

Dates: **Purchased** 06/27/2003
Problem First Occurred 08/24/2003 **Purchase Price** \$0.00
Complaint Received 09/24/2003 **Amount in Dispute** \$0.00
Complaint Closed 01/27/2004

Closing Status In Conciliation
Customer Service Rep
Product or Service Moving Services

Additional Purchase Information

Additional Purchase Info:

-Payment Made: Yes

-Payment Method: Cash

Dates Complained to Firm: 8/29/2003, 9/3/2003, 9/22/2003

Customer Service Rep: Mr. Ofer

Description of Problem

I moved from New York to Houston in June 2003. Ben Hur picked up my furniture and boxes on June 27th, 2003, and promised to deliver within a short time. On June 27th, 2003, Ben Hur collected 60 percent of its fee. The rest 40 percent was to be collected upon delivery. Ben Hur delivered some pieces of furniture on August 25th, 2003, but failed to deliver a desk and my boxes, which contain some very essential items. However, Ben Hur collected the remaining balance (40 percent of the overall fee) by giving me a false receipt that the boxes had

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already been shipped through Fed Ex. Still, until today, September 24th, 2003, the boxes have not been shipped yet. Having collected the remaining balance, Ben Hur no longer has an incentive to ship the boxes and refuses to give me any information on its delivery plans. I have called or e-mailed Ben Hur numerous times, but Ben Hur has either failed to return my calls and e-mails or has repeatedly given false promises to deliver within one or two days. As a result of Ben Hur's actions, I have had to live on the bare necessities in Houston and buy several new items. Furthermore, I had to teach an economics course at Rice University (which is my employer) without my notes, which are still in the boxes. And, of course, I still have no idea whether or when I am going to see my belongings again.

Settlement Sought

Other (requires explanation) - Ben Hur must deliver my belongings immediately. Furthermore, because Ben Hur's actions constitute a flagrant violation of our contract terms, Ben Hur must provide me with a monetary compensation.

Business Response

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Primary Name of Business Ben Hur Moving & Storage, Inc.
Business Address 140 West 83rd Street, New York, NY 10024
Main Business Phone (718) 742-4444
Information from Consumer Additional Firm Info:
 -Phone No: 7187424444
 -Web Site: <http://www.benhur.com>

Consumer Name Todd Shapiro
Consumer Address 162 Dezenzo Lane, West Orange, NJ 07052
Consumer Phone Day (267) 257-1634 Night —

Dates: **Purchased** 09/02/2003
Problem First Occurred 09/16/2003 **Purchase Price** \$1,290.00
Complaint Received 11/17/2003 **Amount in Dispute** \$1,600.00
Complaint Closed 01/27/2004

Closing Status In Conciliation
Customer Service Rep Ms. Monique Cline
Product or Service Moving from Los Angeles to New Jersey

Additional Purchase Information

Additional Purchase Info:

-Model No: job# 106784

-Payment Made: Yes

-Payment Method: Cash

Dates Complained to Firm: 9/25/2003, 10/15/2003, 11/10/2003

Customer Service Rep: Ms. Monique Cline

Description of Problem

I moved from LA to NJ and insured my furniture for full amount at purchase if anything is damaged. It was all damaged upon arrival, I filled out the proper claim forms, sent receipts, and waited. I received a letter saying they received my claim. After that I haven't heard anything. I've called every day for the past month and I am constantly put through to voice mail, put on hold, or told that this person is out. It has now been close to 3 months since my move, I have been contacting

This complaint was filed with the BBB of Metropolitan New York against the above mentioned firm during the past 36 month: the Bureau's standard reporting period.

BBB Case No. 578798

Date Printed 01/06/2006

Mediator: Burton Strumpf



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them for over a month and have never even spoken to the customer service woman once. What is the point of purchasing insurance if they do not stand up to their part of the deal.

Settlement Sought

Refund - I want them to hold their end of the bargain. I had 3 pieces of furniture ruined that cost me around \$1600 less than a year ago, and I had boxes delivered soaking wet with everything in them ruined. I want the replacement value for the furniture.

Business Response

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Primary Name of Business Ben Hur Moving & Storage, Inc.
Business Address 140 West 83rd Street, New York, NY 10024
Main Business Phone (718) 742-4444
Information from Consumer Additional Firm Info:
 -Phone No: 7187424444
 -Web Site: http://www.benhur.com

Consumer Name Akida Edwards
Consumer Address 712 Kenilworth Circle #200, Heathrow, FL 32746
Consumer Phone Day (407) 333-2303 Night --

Dates: *Purchased* 10/23/2003
Problem First Occurred 11/08/2003 *Purchase Price* \$0.00
Complaint Received 12/01/2003 *Amount in Dispute* \$0.00
Complaint Closed 02/05/2004

Closing Status In Conciliation
Customer Service Rep
Product or Service Residential Move

Additional Purchase Information

Additional Purchase Info:

-Payment Made: Yes

-Payment Method: Cash

Dates Complained to Firm: 11/8/2003, 11/18/2003, 11/25/2003

Customer Service Rep: Mr. Orfer Would not provid

Description of Problem

The items were to be delivered the 16th of Nov. I called and asked why they havent left & I was told it was none of my business and there was nothing I could do. The Manager then put me on hold and left the building. Upon delivery the driver would not drive to my apartment or unload into my apartment, the driver put all the heavy boxes in my truck and I had to unload my self. I paid for him to unload. He told me it was not his responsibility & if I wanted to give him \$100.00 he would drive to my apartment and help out. The manager describes

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himself as the president of BenHur, however he was extremely rude. I received 2 calls that the items would be on on the truck and they were never put on the truck and the manager (Orfer) would not explain why. When I unpacked I discovered my laptop had been smashed. I believe this is because I compained to the company. My laptop is \$1,500.00 to replace and/or get repaired. I believe that smashing my laptop was done out of anger.

Settlement Sought

Replacement - I would like my smashed laptop to be replaced. I believe it was smashed due to my complaints of service.

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Consumer Name Karen Bertiger
Consumer Address 103 Narcissus Lane, Madison, AL 35758
Consumer Phone Day (256) 325-9054 Night (917) 821-8675

Dates: **Purchased** 11/04/2003
Problem First Occurred 12/06/2003 **Purchase Price** \$1,845.00
Complaint Received 12/19/2003 **Amount in Dispute** \$0.00
Complaint Closed 03/16/2004

Closing Status In Conciliation
Customer Service Rep Mr. David Lloyd
Product or Service Long distance move

Additional Purchase Information

Additional Purchase Info:

-Model No: 108044

-Payment Made: Partial Payment Made

-Payment Method: Credit Card

Dates Complained to Firm: 12/8/2003, 12/9/2003, 12/16/2003

Customer Service Rep: Mr. Offil

Description of Problem

I contracted Ben Hur to move my belongings from New York City to Madison, AL on November 4, 2003. I was told by the salesperson, David Lloyd, that the move would take 10 days maximum, but typically between 5 and 7. I have called Ben Hur regarding the delivery of my belongings on: Dec 5, Dec 8, Dec 9, Dec 10, Dec 16 and Dec 19th. I have been promised, over this period of time, a delivery date of: Dec 12, Dec 13, Dec 20, and Dec 21st. Today I was informed by a truck driver, Ami,

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that my possessions are still in New York. Offil, the dispatcher with whom I have primarily been dealing and who has promised me the above string of delivery dates, would not take my calls today. I have been told now that delivery will not be until after December 25th. However based on my experience thus far I do not trust any dates or promises they give me. I expected to have my belongings three weeks ago. I am now concerned that Ben Hur has no intention of returning my possessions. They have charged my credit card \$1100 and there is a balance due of \$745.56. I have tried to reach the president of the company and Zurry, the #2 person at the company but neither will return my calls. They are holding everything I own, except for the few things I brought in a suitcase, expecting I would need supplies for only a week. Obviously the most important issue is that they return my belongings. The second is that I be issued a substantial credit for the upset they have caused my life, and the additional expenses I have incurred due to not having my belongings for so long. In addition I am now suffering back pain from living off the floor for so long, and my Christmas is ruined because I am unable to entertain, I have none of my clothing, etc. In addition, I have been unable to look for a job in my new town because the movers are holding my interview suits, resume materials, and other things necessary to seek out a job. This whole situation has caused me considerable discomfort and grief.

Settlement Sought

Other (requires explanation) - I would like my belongings returned to me ASAP. I do not want to pay the balance of \$745 and would like a partial refund of the \$1100 they have already charged my credit card.

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Information from Consumer Additional Firm Info:
 -Phone No: 7187424444

Consumer Name Vanessa Percoco
Consumer Address 14 Collins Road, Ashaway, RI 02804
Consumer Phone Day (516) 707-8709 Night --

Dates: Purchased

Problem First Occurred

Purchase Price \$0.00

Complaint Received 09/07/2005

Amount in Dispute \$0.00

Complaint Closed

Closing Status Pending

Customer Service Rep

Product or Service

Additional Purchase Information

Customer Service Rep: Mr. Troy

Description of Problem

I was suppose to move from New York to Rhode Island. I hired Ben Hur to move my furniture. They called me the day before to confirm. On Aug 28 when they did not show up at the 8:00 A.M., I called them at 8:30. They said the truck left a half hour ago. At 9:30 the truck called asking me for directions to my apartment. They called a half hour later in an area where if they looked at a map, they would have realized they they took an extremely long round about way to my apartment. An hour and a half later they called to say the truck was broken. After many phone calls, by 2:30 they asked if they could move me tomorrow. I told them this was unacceptable and I would like to speak to a manager. They said that the manager was not in on a Sunday. I told them to have the manager speak to me first

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thing that morning. The next morning, the moving man Xavier calls me at 7:30 A.M. and tells me they are on their way. I told them that I need to speak to a manager. They never let me speak to a manager and I spoke to a dispatcher name Mike who told me that three guys are on their way on how wonderful they are. He did not even apologize or offer me a discount. I told them I would accept nothing less than a 20% discount, and that there was absolutely no negotiating. After a few minutes on hold he agreed. I then thought about and discussed my options with my fiancé. We decided to do it ourselves and we did.

This is no way to run a business. I felt manipulated and I really feel that they thought I had no choice in using them and they thought they 'had me.' They called me asking for directions and kept making up different excuses for not being able to come. If they were honest from the beginning, I would not feel the need to file a formal complaint. Moving is stressful enough, Ben Hur did not make it any easier for me. I hope people will read this and think twice about this company.

Settlement Sought

Not Applicable - I did not use them and moved myself instead. Most families and individuals would not have the same option that I did.

Business Response

This complaint was filed with the BBB of Metropolitan New York against the above mentioned firm during the past 36 months the Bureau's standard reporting period.

BBB Case No. 648621

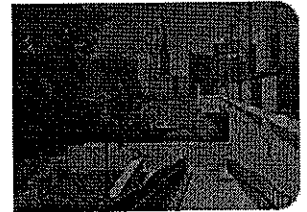
Date Printed 01/13/2006

Mediator: Burton Strumpf

Exhibit D

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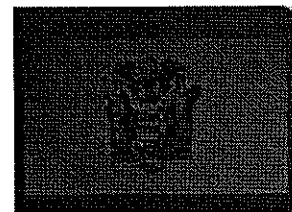
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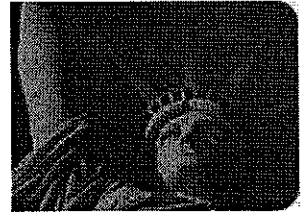
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BBB Accredited Business

Is BBB Accreditation new?

Yes. Prior to October 1, 2007, BBB Accredited Businesses referred to themselves as BBB members.

Does BBB Accreditation mean something different from BBB membership?

No. The two are synonyms. From BBB inception, businesses that apply to the BBB have undergone a detailed review process and committed to abide by a set of

ethical standards for marketplace conduct.

What are the BBB standards against which businesses that request are evaluated?

The standards are a comprehensive set of best practices for how businesses should treat the public in a fair and honest manner.

Do BBBs monitor Accredited Businesses for continuing compliance with standards?

Yes. Every BBB Accredited Business is monitored for continuing adherence to BBB standards.

Check out a Business

Why do I have to call a BBB long distance to get a report on a business?

There are 128 BBB offices in the U.S., Canada and Puerto Rico. Each office maintains files on businesses headquartered in its service area, which may extend as far as a 200 mile radius. BBBs have the most current information on businesses from their complaint files, plus additional information gathered from various area sources such as local, state and federal government agencies. BBBs also carry reports on national businesses. The good news is - you no longer have to call us for information. Every BBB in the U.S. and Canada posts its reliability reports on the web, and you can locate a report via our central lookup screen at <http://search.bbb.org>. In addition, BBB representatives are available to assist you on the phones during normal business hours.

Why won't the BBB recommend a reputable business for me to deal with?

The basic policy of the BBB is to refrain from recommending or endorsing any business, product or service. This is done to ensure continued public trust in our fairness.

BBB accredited businesses must meet certain standards to qualify for accredited business status and to remain an accredited business. Many BBBs publish their entire accredited business list, or you may request a list of BBB accredited businesses in a specific business category. Reliability reports from most BBBs also state whether a business is accredited.

Why doesn't the BBB report on private actions and small claims court actions against businesses?

BBB reliability reports contain information on actions against businesses and/or their principals brought by government agencies that allege violations of laws or regulations relevant to marketplace activities and that are relevant to consumer's buying decisions. Private civil actions between businesses, or between businesses and their customers, do not necessarily involve violations of law and involve private disputes that cannot fairly or meaningfully be reported to the public.

Doesn't the BBB report only on its accredited businesses?

No. BBBs issue reports on accredited businesses and non accredited businesses alike. We, as a matter of policy do not endorse or recommend any business, product or service, apply the same standards to reporting on businesses, regardless of their BBB accredited business status. Our reports may, however, note the fact of a business' accredited status in the BBB.

Because BBB accredited businesses must qualify for accredited business status by adhering to certain standards, a business with a bad report will be disqualified for accredited business status. However, this does NOT mean that a business that is not an accredited business has a bad report or would not qualify for accredited business status.

Complaints

If all your funding comes from business, how can you be fair to the consumer?

The BBBs value to the business community is based on our neutrality. Our purpose is not to act as an advocate for businesses or consumers, but to act as a mutually trusted intermediary to resolve disputes, to facilitate communication, and to provide information on ethical business practices. Businesses have supported the BBB for over 80 years because an ethical marketplace is in everyone's best interest.

How can a BBB be unbiased when it gets a complaint about an accredited

business?

The BBBs integrity is on the line every time we review and process a complaint. If we were to favor an accredited business over a non-accredited business in a complaint, such action would destroy our most valuable asset-- the public trust that we have held for over 80 years. Our accredited businesses support us because they know we will act as a neutral third party, giving them an opportunity to learn of and respond to customer problems.

I filed a complaint with the BBB. The business has not responded. Why can't the BBB make a business satisfy my complaint?

When a BBB receives a complaint, we present the complaint to the business and request its assistance in working out the problem with the unhappy customer. Most businesses are grateful for the opportunity to resolve problems with their customers since it often means their patronage will be preserved.

BBB accredited businesses agree to respond to consumer complaints presented by the BBB, and lose their accredited business status if they do not. Most other businesses, regardless of whether they are BBB accredited businesses, also cooperate with the BBB.

However, some businesses do not want to work with the BBB and/or their customers to resolve complaints. Because we are not a government or law enforcement agency, we cannot force a reply from a business; nor can we administer sanctions. However, a business' unwillingness to respond to us or a customer will be noted in the business' reliability report we provide to the public. The customer is free to pursue other alternatives such as legal action.

I called the BBB and was told that what I'm asking from the business is unreasonable. Isn't the BBB supposed to be on the consumer's side?

The BBB is neutral, working to promote an ethical marketplace. It tries to seek a mutually satisfactory outcome in disputes between business and customers. Businesses and customers both have rights and responsibilities in the marketplace. We try to do what's right, rather than take sides.

The BBB is allowing a customer to file what I feel is an unfair complaint about my business. I'm an accredited business of the BBB; aren't you supposed to be on my side?

No. While the BBB is supported by the dues paid by accredited businesses, it remains impartial and does not take sides in disputes between customers and businesses, whether accredited businesses or not.

What good is the BBB if it can't help me resolve my problem?

BBBs can help solve consumer/business problems. As private non-profit organizations, however, they cannot force a solution on parties to a dispute. Most BBBs do offer mediation and arbitration to help resolve consumer disputes, which can save both businesses and consumers the time and expense of going to court.

We do a lot more than help settle disputes. Through the support of their accredited businesses, BBBs work for an ethical marketplace by maintaining standards for truthful advertising, investigating and exposing fraud against consumers and businesses and providing information to consumers *before* they purchase products and services.

Services

Doesn't the BBB give credit reports?

The BBB reports on a business' marketplace practices. It does not report either individual or business credit information. Our reliability reports contain information about the nature of the business, its principal officers, a three-year summary of any complaints processed, and any government action involving the business' marketplace practices. Most BBBs will also report a business' accredited business status in its public report and note whether it participates in any special BBB programs to improve customer satisfaction.

Isn't the BBB the same as a Chamber of Commerce?

No. BBBs work closely with Chambers of Commerce in their communities, but have

different purposes. Chambers are designed to PROMOTE their communities through economic development and other activities. BBBs exist to PROTECT the citizens and businesses in the communities they serve, and to work to promote an ethical marketplace.

Can the BBB help me collect past due accounts?

Although some BBBs have specialized programs to help resolve complaints that result in non-payment of bills, we do not operate as collection agencies for individuals or businesses.

Why can't the BBB stop rip-offs and scams?

Many times, BBBs do. Although we do not have legal and policing powers, we provide information about marketplace fraud through scam reports to the public, media releases and alerts.

BBBs work closely with local, state and federal law enforcement agencies, providing them with valuable information on potentially fraudulent activities. Many times we are the first organization to know about a developing scam and alert authorities and the public. When a scam develops in one part of the country, the news travels quickly between BBBs in the U.S., Canada and Puerto Rico that in turn alert the public in their communities.

The public can help to stop rip-offs and scams by contacting us before they do business with an unknown company and by notifying us of a potential scam. If it sounds too good to be true, it probably is.

What Does the BBB Do?

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